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(*pro hac vice*)

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CENTER FOR BIOLOGICAL DIVERSITY
and AMARGOSA CONSERVANCY,

Plaintiffs,

vs.

DEBRA HAALAND in her official capacity
as Secretary of the Interior, TRACY STONE-
MANNING in her official capacity as the
Director of the Bureau of Land Management,
U.S DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT, and
NICHOLAS B. PAY in his official capacity
as Field Manager of the Bureau of Land
Management Pahrump Field Office,

Defendants.

Case No: 2:23-cv-1049-JAD-NJK

JOINT STATUS REPORT

Plaintiffs, the Center for Biological Diversity and the Amargosa Conservancy (Plaintiffs)
and Defendants, Debra Haaland *et al.*, (BLM) hereby submit this Joint Status Report.

Plaintiffs filed this action on July 7, 2023, challenging BLM's actions in connection with
Rover Metals (USA), Inc.'s (Rover) "Let's Go Lithium" project (the Project), proposed mineral
exploration operations located adjacent to the Ash Meadows National Wildlife Refuge. *See*
Compl., ECF 1. On July 17, 2023, Plaintiffs filed a Motion for Preliminary Injunction seeking to
halt mineral operations near the Refuge (ECF 9).

On July 19, 2023, Defendants issued two documents in connection with the Project: (1) Rescission of Acknowledgement of Notice and Requirement for Plan of Operations (Decision No. 1); and (2) Rescission of Determination of Required Financial Guarantee for Ongoing Operations (Decision No. 2). *See* July 21, 2023 Joint Motion for Stay of Case and Withdrawal of Preliminary Injunction Motion, ECF 14. These decisions rescinded BLM’s “acknowledgement”¹ of Rover’s April 5, 2023 Notice of Intent (NOI) and its acceptance of the associated bond.

On July 21, 2023 Plaintiffs and Defendants filed a Joint Motion for Stay of Case and Withdrawal of Preliminary Injunction Motion, ECF 14. This Court granted the Joint Motion on the same day. In its Order granting the Joint Motion, the Court stated:

The motion for preliminary injunction [ECF No. 9] is deemed withdrawn and all deadlines related to it are vacated. This action is STAYED for all purposes. The Clerk of Court is directed to ADMINISTRATIVELY CLOSE THIS CASE. Status report is due in 60 days. Should any party desire further court action in this case, that party must file a motion to lift this stay.

ECF 15. Thus, this Status Report is due November 17, 2023.

After this Court granted the Joint Motion, Plaintiffs and Defendants met and conferred to discuss case status and future proceedings. Those discussions did not result in an agreement. Plaintiffs therefore intend to move to reopen the case to permit additional pleadings and motion practice. Specifically, Plaintiffs intend on filing an Amended Complaint to add a claim under the Endangered Species Act (ESA), which could not have been included in the initial Complaint, as the ESA requires prospective plaintiffs to wait at least 60 days after giving formal notice before filing a lawsuit.²

¹ Plaintiffs and Defendants dispute the terminology regarding BLM’s actions regarding Rover’s Notice of Intent, more specifically whether BLM “acknowledged” Rover’s NOI or whether BLM “approved” operations under the NOI. However, that dispute does not affect this Joint Status Report and Motion.

² Section 11(g) of the ESA permits “any person” to “commence a civil suit” against “any person” alleged to be in violation of the Act (including the United States government), but only after

1 Defendants submit that there is no reason to continue the litigation because BLM has
2 ordered that the originally noticed exploratory drilling operations cannot proceed without an
3 approved plan of operations. Because Plaintiffs have indicated that they intend to amend their
4 complaint, however, Defendants will address the justiciability of Plaintiffs' proposed claims in
5 their response to Plaintiffs' filings.

6 Plaintiffs will submit a motion to reopen the case and file an amended complaint by
7 November 24, 2023, and Defendants will respond accordingly.

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10 Respectfully submitted this 17th day of November, 2023,

11 /s/ Scott Lake

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(pro hac vice application to be submitted)

20 *Attorneys for Plaintiffs*

21 /s/ Shannon Boylan (with permission)

22 Shannon Boylan, Trial Attorney
23 Natural Resources Section
24

25 sixty days' written notice has been given to the alleged violator. 16 U.S.C. § 1540(g). Plaintiffs
26 notified Defendants of their ESA claims by letter dated May 26, 2023, and the statutory 60-day
27 notice period ran on or after July 25, 2023, after this Court granted the Joint Motion and stayed
the case. As a result, Plaintiffs have not had an opportunity to plead their ESA claims.

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2 Division United States Department of Justice
3 150 M St. NE
4 Washington, DC 20002
5 202-598-9584
6 shannon.boylan@usdoj.gov

7 *(Attorney for Defendants)*

8 **CERTIFICATE OF SERVICE**

9 I certify that on this 17th day of November, 2023 I served a true and correct copy of the
10 foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of
11 such upon all attorneys of record.

12 /s/ Scott Lake
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